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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,607	01/22/2002	Kenneth Jacobs	JAO-1	5270
20311	7590	09/21/2005	EXAMINER	
LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016			DESIR, JEAN WICEL	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/054,607

Applicant(s)

JACOBS, KENNETH

Examiner

Jean W. Désir

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/1/05, RCE.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☒ Claim(s) 11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Noble (US 4,907,860).

#### **Claim 11:**

The claimed “wearing a pair of eyeglasses that cover both a right eye and a left eye of a viewer of said two-dimensional moving picture frames, wherein each of said pair of eyeglasses can be clear or activated to partly block light reaching the eye of the viewer” is disclosed, see Fig. 1, the ABSTRACT lines 1-8, col. 3 lines 31-34;

the claimed “and activating one or the other said pair of eyeglasses partly block light reaching one or the other of the eyes of the viewer, wherein said activation is synchronized with movement of objects of said two-dimensional moving picture frames” is disclosed, see Fig. 1, col. 6 lines 19-25, col. 5 lines 8-20.

Claim 12 is disclosed, see col. 2 lines 18-31.

### ***Response to Arguments***

3. Applicant's arguments have been fully considered but they are not persuasive.

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The Applicant argues on pages 12 and 13 of the REMARKS that "Noble does not teach or suggest that each of the eyeglasses can be activated to partly block Light".

These arguments are not persuasive because Noble clearly teaches that eyeglasses have correspondingly alternating on/off left and right lenses. The lenses each contain liquid crystal material which varies from a nearly totally obscured state by scattering to nearly 100% transmission (see the ABSTRACT lines 1-8, col. 3 lines 31-38); these portions clearly suggest that each of the eyeglasses can be activated to partly block light as claimed, and as pointed out in the rejection; and, contrary to the Applicant's arguments on page 13 of the REMARKS, the activation is clearly synchronized with movement of objects of the two-dimension moving picture frames, as claimed (see col. 5 lines 8-20, col. 6 lines 19-25, col. 3 lines 31-34, as pointed out in the rejection).

Therefore, Applicant's arguments are not persuasive, the rejection is maintained before the Office.

#### ***Allowable Subject Matter***

4. Claims 1-9 are allowed.


#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean W. Désir whose telephone number is (571) 272 7344. The examiner can normally be reached on 5/4/9 - First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272 7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**JWD**  
**Sep. 17, 05**

  
**BRIAN YENKE**  
**PRIMARY EXAMINER**